



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2014–0050; FXES11120500000–156–FF05E00000]

**Early Scoping for an Anticipated Application for Incidental Take Permit and Draft
Habitat Conservation Plan; Copenhagen Wind Farm, LLC**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of scoping.

SUMMARY: Pursuant to the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA), we, the U.S. Fish and Wildlife Service (Service), announce our intent to prepare a NEPA document for an anticipated Incidental Take Permit (ITP) application and associated draft habitat conservation plan (HCP) from Copenhagen Wind Farm, LLC for construction and operation of a wind energy facility on private lands that provide potential habitat for the northern long-eared bat and the

federally listed endangered Indiana bat. The northern long-eared bat has recently been proposed for listing as an endangered species under the ESA. Construction activities (e.g., tree clearing) and operation of wind turbines on these lands have the potential to incidentally take Indiana bats and northern long-eared bats. Therefore, Copenhagen Wind Farm, LLC is developing an ITP application and HCP to address these activities.

In advance of receiving the ITP application for this project, the Service is providing this notice to request information from other agencies, Tribes, and the public on the scope of the NEPA review and issues to consider in the NEPA analysis and in development of the HCP.

DATES: We will accept comments received or postmarked on or before [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal Web site at:
<http://www.regulations.gov>. In the Search box, enter **FWS-R5-ES-2014-0050**, which is the docket number for this notice. Click on the appropriate link to locate this document and submit a comment.
- *By hard copy:* Submit by U.S. mail or hand-delivery to Public Comments Processing, Attn: **FWS-R5-ES-2014-0050**, Division of Policy, Performance,

and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, Falls Church, VA 22041.

We request that you send comments by only the methods above. We will post all information received on the Web site at <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: Robyn A. Niver, by mail at U.S. Fish and Wildlife Service, 3817 Luker Road, Cortland, NY 13045, or by telephone at 607-753-9334.

SUPPLEMENTARY INFORMATION: We announce our intent to prepare a NEPA document for a pending ITP application and associated draft HCP from Copenhagen Wind Farm, LLC for construction and operation of a wind energy facility on approximately 11,250 acres of leased private lands in Lewis and Jefferson Counties, New York. A map depicting the proposed project on the landscape can be viewed on the Service's New York Field Office Web page, at <http://www.fws.gov/northeast/nyfo/es/ibat.htm>. Dominated by active agricultural fields, along with substantial blocks of forested lands and lesser amounts of successional and disturbed communities, these lands provide potential foraging, roosting, maternity colony, and fall swarming habitat for all or many bat species that occur in the State of New York, including the northern long-eared bat (*Myotis septentrionalis*) and the

federally listed endangered Indiana bat (*Myotis sodalis*). Both construction (e.g., tree clearing) and operation of wind turbines have the potential to incidentally take northern long-eared bats and Indiana bats. Therefore, Copenhagen Wind Farm, LLC is developing an ITP application and HCP to address these activities.

In advance of receiving the ITP application for this project, the Service is providing this notice to request information from other agencies, Tribes, and the public on the scope of the NEPA review and issues to consider in the NEPA analysis and in development of the HCP. We will proceed with preparation of an Environmental Assessment (EA), which we will use to evaluate, in conjunction with the public comments, whether any significant impacts would require further analysis in an Environmental Impact Statement.

Request for Information

We request data, comments, information, and suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We will consider all comments we receive in complying with the requirements of NEPA and in the development of the HCP and ITP.

We seek comments particularly related to:

(1) Information concerning the range, distribution, population size, and population trends of Indiana bats and northern long-eared bats in New York State;

(2) Additional biological information concerning Indiana bats, northern long-eared bats, and other federally listed species that occur in New York State that could be affected by proposed covered activities;

(3) Relevant data and information concerning myotis bat interactions with wind turbine construction and operation;

(4) Current or planned activities in the project planning area and their possible impacts on Indiana bats, northern long-eared bats, and other federally listed species in New York State;

(5) The presence of facilities within the project planning area that are eligible to be listed on the National Register of Historic Places, or whether other historical, archeological, or traditional cultural properties may be present;

(6) Any other issues relating to the human environment and potential impacts that we should consider with regard to the project planning area, covered activities, and potential ITP issuance.

You may submit your comments and materials concerning this notice by one of the methods listed in the **ADDRESSES** section.

Background

The Indiana bat is listed as an endangered species under the ESA. The population decline of this species has historically been attributed to habitat loss and degradation of both winter hibernation habitat (hibernacula) and summer roosting habitat,

human disturbance during hibernation, and possibly pesticides. A recent new threat to Indiana bats is white-nose syndrome (WNS), a disease caused by a fungus (*Pseudogymnoascus destructans*, previously classified as *Geomyces destructans*) that invades the skin of bats. The fungus erodes wing tissue and alters behaviors such as hibernation location and arousal patterns, which decreases fat stores essential for overwinter survival. Millions of bats are estimated to have died as a result. White-nose syndrome is resulting in large population declines in some parts of the species' range, including the northeastern and southeastern United States.

The range of the Indiana bat includes much of the eastern United States, including New York. Winter habitat for the Indiana bat includes caves and mines that support high humidity and cool, but stable, temperatures. In the summer, Indiana bats roost in trees (dead, dying, or live trees) with exfoliating bark, cracks, crevices, and/or hollows. During summer, males roost alone or in small groups, while females and their offspring roost in larger groups. Indiana bats forage for insects in and along the edges of forested areas and wooded stream corridors.

The northern long-eared bat has recently been proposed for listing as an endangered species under the ESA. White-nose syndrome is the predominant threat to the species, though other threats may include impacts to hibernacula and summer habitat, and disturbance of hibernating bats. Northern long-eared bats have been abundant in the eastern United States and are often captured in summer mist nets surveys and detected during acoustic surveys. Northern long-eared bats are known to frequent forested

habitats throughout New York. Similar to Indiana bats, northern long-eared bats generally hibernate in caves and mines during the winter. During the summer, the bats roost in live trees and snags, though they are also known to use human-made structures such as barns, sheds, and bat boxes.

Potential Federal Action

The proposed Federal action that will be analyzed through NEPA will be the potential issuance of an ITP to allow incidental take of Indiana bats and northern long-eared bats from the construction and operation of the wind energy facility, including specific activities that will be described in the HCP. The HCP will incorporate avoidance, minimization, mitigation, monitoring, and reporting measures aimed at addressing the impact of the covered activities to Indiana bats and northern long-eared bats. The project planning area for the HCP is the 11,250 acres of private lands under lease agreement with Copenhagen Wind Farm, LLC for construction and operation of a wind energy facility. The project consists of two phases, which will deliver up to 79.9 and 24.9 megawatts (MW) respectively of electrical power to the New York State electric grid.

Phase I

Phase I consists of a 6,605-acre generation site and a 2,595-acre transmission site. The generation site will include 47 wind turbines, approximately 15.2 miles of access roads, 20.3 miles of 34.5-kV electrical collector lines, a collection substation, 3 meteorological towers, a construction staging area, and an Operations and Maintenance

(O&M) facility, located in the Town of Denmark in Lewis County, New York. The transmission site will include approximately 8.8 miles of overhead 115-kV electric transmission line, to be located in the Towns of Champion and Rutland, in Jefferson County, New York, and a Point of Interconnect (POI) substation, to be located adjacent to the existing National Grid Black River–Lighthouse Hill 115-kV transmission line in the Town of Rutland, Jefferson County, New York. Phase I construction is anticipated to begin with tree-clearing activities over the winter of 2015–2016, with access road and other construction commencing in the spring of 2016. Construction of Phase I is expected to be completed by December 2016.

Phase II

Phase II consists of up to 15 additional turbines, along with approximately 5.5 miles of access roads and 11 miles of collector lines, to be located on approximately 2,050 acres of leased private lands. The 34.5-kV electrical collector lines will gather the electricity from the turbines in the Town of Pinckney and deliver it to the collection substation in the Town of Denmark (to be constructed as part of Phase I). The turbines, access roads, and approximately 5.4 miles of the electrical collector lines will be located in the Town of Pinckney, Lewis County, New York. The remaining 5.6 miles of electrical collector lines will be located in the Town of Denmark, generally in close proximity to infrastructure associated with Phase I of the Project. Phase II construction is anticipated to begin with tree-clearing activities over the winter of 2016–2017, with access road and other construction commencing in the spring of 2017. Construction of Phase II is expected to be completed by December 2017.

The HCP is expected to address both construction and operational activities associated with the wind energy facility. The covered construction activities in the HCP are anticipated to be as follows: Preconstruction activities (e.g., geotechnical boring, installation of sedimentation and erosion control measures, field demarcation of previously identified sensitive resources), staging area construction, site preparation (e.g., clearing woody vegetation from work areas), public road improvement, access road construction, turbine foundation construction, electrical collector system installation, wind turbine assembly and erection, transmission line and POI substation construction, O&M facility construction, and turbine commissioning. The covered operational activities in the HCP are anticipated to be as follows: Operation of turbines and associated electrical collection and transmission equipment, scheduled and unscheduled maintenance, and environmental management. Copenhagen Wind Farm, LLC anticipates that the activities posing the greatest risk of incidental take of Indiana bats or northern long-eared bats are (1) tree clearing during construction, and (2) collisions with operating turbines. They do not anticipate construction or operation of the wind energy facility will result in incidental take of any other federally listed species in the planning area. Potential minimization and mitigation measures may include removal of suitable roost trees during winter, operating turbines during periods of less bat activity, protection and enhancement of hibernacula, and protection and enhancement of Indiana bat and northern long-eared bat roosting and foraging habitat. The proposed duration of the ITP is 30 years.

NEPA Alternatives

The Service has not yet developed any NEPA alternatives to the proposed Federal action (i.e., issuance of an ITP conditioned on implementation of the HCP). The NEPA analysis will assess the direct, indirect, and cumulative impacts of the proposed Federal action on the human environment, comprehensively interpreted to include the natural and physical environment and the relationship of people with that environment. It will also analyze several alternatives to the proposed Federal action, including no action and other reasonable courses of action (potentially including minimization and mitigation measures not considered in the proposed action). Relevant information provided in response to this notice will aid in developing the draft HCP and the NEPA analysis.

Prior Public Outreach

Phase I of the project has already undergone public review as part of the local permitting process, pursuant to the New York State Environmental Quality Review Act (SEQRA) and its implementing regulations, 6 NYCRR Part 617. This process was initiated on May 5, 2012, when Copenhagen Wind Farm, LLC submitted to the Town of Denmark Planning Board a full Environmental Assessment Form (EAF) and an application for a special use permit. On July 7, 2012, the Town of Denmark Planning Board forwarded a solicitation of Lead Agency status, along with a copy of the EAF document, to potentially interested/involved SEQRA agencies. No agency objected to the Town of Denmark Planning Board assuming the role of Lead Agency. The Town of

Denmark, as Lead Agency, subsequently issued a Positive Declaration on August 7, 2012, requiring the applicant to prepare a Draft Environmental Impact Statement (DEIS).

The DEIS was accepted as complete on June 4, 2013, and copies of the DEIS were subsequently delivered to involved/interested agencies, and posted to a Web site managed by OwnEnergy (<http://www.ownenergy.net/project-development/our-projects/copenhagen-wind-farm>). Opportunities for detailed agency and public review were provided during the DEIS public comment period (June 4, 2013, through August 13, 2013), including a public hearing conducted by the Lead Agency on July 9, 2013, at the Copenhagen Central School gymnasium (3020 Mechanic Street, Copenhagen, NY). Eleven separate “comment letters” (hardcopy, email, and oral comments) were received, which provided 158 individual comments that were considered during the FEIS analysis. The comments covered a wide range of topics addressed in the DEIS. The most commonly raised questions and concerns pertained to biological resources and water resources, particularly with regard to potential impacts to birds, bats, and groundwater.

A responsiveness summary to address all substantive comments received on the DEIS during the public comment period was included as Section 4.0 of the Final Environmental Impact Statement (FEIS). The FEIS was accepted as complete by the Lead Agency on July 10, 2014, and is also available at the Project Web site (<http://www.ownenergy.net/project-development/our-projects/copenhagen-wind-farm>). The Lead Agency issued its Findings Statement on August 19, 2014. This document provides the rationale for the Planning Board’s decision to approve issuance of the

pending permit applications, and includes discussion of mitigating measures that will be incorporated as conditions of the pending permits and approvals to avoid or minimize adverse environmental impacts.

Public review of Phase II of the Project has not yet been initiated. However, it is anticipated that the same local permitting process used for Phase I will be followed for Phase II (i.e., EAF, DEIS, Public Comment Period, FEIS).

Next Steps

In this stage of the project, we are seeking information to aid in development of the NEPA analysis and the draft HCP, and to inform what level of environmental analysis would be necessary for project implementation. We will then develop a draft NEPA document based on the ITP application, Applicant's draft HCP, any associated documents, and public comments received through this early scoping effort. We may solicit additional public, agency, and Tribal input to identify the nature and scope of the environmental issues that should be addressed during NEPA review, following appropriate public notice. We will then publish a notice of availability for the draft NEPA document and draft HCP and seek additional public comment before completing our final analysis to determine whether to issue an ITP.

Public Comments

During this 30-day public comment period (see **DATES**), the Service invites the public to provide comments that will aid our NEPA analysis. You may submit comments by one of the methods shown under **ADDRESSES**.

Public Availability of Comments

We will post all public comments and information received electronically or via hardcopy on <http://regulations.gov>. All comments received, including names and addresses, will become part of the administrative record and will be available to the public. Before including your address, phone number, electronic mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—will be publicly available. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Authority

This notice is provided pursuant to NEPA regulations
(40 CFR 1501.7 and 1508.22).

Dated: March 10, 2015.

**Paul R. Phifer, Assistant Regional Director,
Ecological Services, Northeast Region.**

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